

Action brought on 29 October 2010 — European Commission v Republic of Austria

(Case C-516/10)

(2011/C 13/38)

Language of the case: German

Parties

Applicant: European Commission (represented by: G. Braun and E. Montaguti, acting as Agents)

Defendant: Republic of Austria

Form of order sought

- Declare that, by maintaining in force Paragraph 5 in conjunction with Paragraph 2(3) and (4) and Paragraph 6(2)(g) of the VGVG, the Republic of Austria has infringed Articles 49 TFEU and 63 TFEU;
- Declare that, by maintaining in force Paragraph 6(2)(d) in conjunction with Paragraph 2(3) and (4) of the VGVG, the Republic of Austria has infringed Articles 49 TFEU and 63 TFEU;
- Order the Republic of Austria to pay the costs.

Pleas in law and main arguments

The Commission does not question the fact that Member States may restrict the purchase of plots of land on grounds of public interest. However, the provisions of the Vorarlberger Grundverkehrs-gesetz (VGVG) cited in the forms of order sought constitute a disproportionate restriction on the free movement of capital and the right of establishment.

In particular, the so-called Interessentenregel ('interested parties rule'), according to which the VGVG landowners take precedence in purchases of agricultural land over non-landowners, is disproportionate. The continued agricultural use of the land can, according to the defendant, thus be guaranteed if the potential purchaser is willing to lease the land on a long-term basis to the previous tenant.

Similarly, it is not apparent why the interested parties rule should also apply where the previous owner includes his plot of land as an asset in kind in an undertaking or a foundation, although the continued agricultural use of the land is ensured.

In the view of the Commission, it is also disproportionate that the abovementioned interested parties rule is repeatedly applied where the purchase is not completed for reasons unconnected with the vendor.

Finally, the Commission disputes that the VGVG does not provide for any kind of regulation which permits, in the case of a lack of interest from landowners in the exploitation of a

plot of agricultural land, that land to be sold without an obligation on the purchaser to use it for agricultural purposes.

Reference for a preliminary ruling from Court of Appeal (England & Wales) (Civil Division) made on 2 November 2010 — Yeda Research and Development Company Ltd, Aventis Holdings Inc v Comptroller-General of Patents

(Case C-518/10)

(2011/C 13/39)

Language of the case: English

Referring court

Court of Appeal (England & Wales) (Civil Division)

Parties to the main proceedings

Applicants: Yeda Research and Development Company Ltd, Aventis Holdings Inc

Defendant: Comptroller-General of Patents

Question referred

If the criteria for deciding whether a product is 'protected by a basic patent in force' under Article 3(a) of the Regulation⁽¹⁾ include or consist of an assessment of whether the supply of the product would infringe the basic patent, does it make any difference to the analysis if infringement is by way of indirect or contributory infringement based on Article 26 of the Community Patent Convention, enacted as s60(2) Patents Act 1977 in the UK, and the corresponding provisions in the laws of other Member States of the Community?

⁽¹⁾ Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products
OJ L 152, p. 1

Reference for a preliminary ruling from the Tribunale di Bari (Italy) lodged on 27 October 2010 — Giovanni Colapietro v Ispettorato Centrale Repressioni Frodi

(Case C-519/10)

(2011/C 13/40)

Language of the case: Italian

Referring court

Tribunale di Bari

Parties to the main proceedings

Applicant: Giovanni Colapietro

Defendant: Ispettorato Centrale Repressioni Frodi